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C O N F I D E N T I A L SECTION 01 OF 03 VILNIUS 001002

SIPDIS

STATE FOR L, EUR/NB, AND EUR/OHI

E.O. 12958: DECL: 09/21/2014

TAGS: PREL KTIA LH

SUBJECT: APPLICABILITY OF AGREEMENT TO PROTECT CULTURAL HERITAGE

REF: VILNIUS 733

Classified By: Pol/Econ Officer Gregory L. Bernsteen for Reasons 1.4(b) and (d)

¶1. This is a request for guidance. Please see paragraph 12.

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SUMMARY  
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¶2. (C) International and American Jewish groups have expressed concerns regarding two construction projects on or near a large Jewish cemetery not far from the center of Vilnius. One is a multi-use building currently under construction and mostly complete; the second is a long-term development project that remains on the drawing board. A 2002 agreement between the USG and the GOL could be a source of leverage to influence the future of these projects. We seek the Department's guidance on the applicability and enforceability of that agreement with respect to this case.  
END SUMMARY.

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Background  
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¶3. (SBU) The Snipiskes Jewish Cemetery, dating back to the 16th century, sprawls across a three-hectare site along the Neris River, across from central Vilnius, in what is now a prime development area. The cemetery has been closed for over 170 years. Czarist Russia, the Nazi occupation government, and the Soviet government each developed portions of the cemetery, removed some graves and grave markers, and/or otherwise despoiled the burial grounds. There are no longer any headstones or cemetery walls, although at least some sections of the cemetery contain graves or less organized human remains. The exact borders are no longer distinct.

¶4. (SBU) Interested Jewish parties in the United States argue that this cemetery still belongs to world Jewry. The history of successive appropriations of the property and vagaries of post-Soviet occupation law seem to make this claim untenable, as the cemetery grounds were already municipal property hundreds of years ago. Czarist troops built a military fort on the site as early as 1831, and subsequently the City of Vilnius built a power station (now demolished) on part of the site in 1901. Lithuanian property restitution laws only cover property the Nazis and Soviets confiscated during their respective periods of occupation. They do not cover earlier transgressions, however odious.

¶5. (SBU) Individuals and at least one Jewish organization have requested that we act on their behalf to stop the project. We have consistently recommended that these parties work through the Lithuanian Jewish community, or alternatively, retain local representation to take administrative or legal actions to stop construction, as local laws allow. These parties have told us they will do neither, contending they do not trust the local community and that they cannot afford to hire counsel.

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Development Plans  
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Commercial/Residential Complex

¶6. (SBU) The first project under contention, the King Mindaugas Commercial and Apartment Center, is on the site of a Soviet-era water sports complex. It is already substantially complete. The City of Vilnius points to cartographic evidence dating back to the early 1700s that show this present construction lies just outside the old cemetery grounds. Some parties within the U.S. Jewish Community variously maintain either that the site is within the official boundaries of the cemetery, that the boundaries on the City's maps are inaccurate, or that, regardless the official boundaries, the cemetery actually extended to the area of the construction site and that formal graves remain.

17. (SBU) The Vilnius Municipality created a commission that included representatives from the Lithuanian Jewish community and the Prime Minister's advisor for Jewish Affairs to review construction plans. The commission determined that the proposed building would have no impact on the cemetery, and the Municipality subsequently issued a construction permit. The Lithuanian Jewish Community accepted the commission's finding.

Sports Palace Project

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18. (U) The City has released preliminary plans for a major riverside development on the site of an existing Soviet-era sports arena indisputably built on the former cemetery grounds. The project is still in the preliminary stage of development, but plans contemplate the possible erection of a monument commemorating recognition of the Snipiskes Cemetery and/or demarcation of a remaining portion of the cemetery as parkland. The timetable for construction of the larger project to replace the Sports Palace is still uncertain, and the City has not yet found funding for the project.

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The Agreement

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19. (SBU) The Commission for the Preservation of America's Heritage Abroad (CPAHA), on behalf of the USG, signed a government-to-government agreement with the GOL on October 15, 2002 entitled "On the Protection and Preservation of Certain Cultural Properties." (NOTE: Text of the agreement is available at [www.heritageabroad.gov/agreements/Lithuania.html](http://www.heritageabroad.gov/agreements/Lithuania.html).) Articles 4 and 5 of the Agreement require the GOL to "take special steps to ensure...protection and preservation of cultural heritage" and to ensure that properties of cultural heritage are "protected, preserved, and marked in the manner stipulated by valid legal internal regulations."

10. (U) Lithuanian law provides for redevelopment of a closed cemetery if the GOL determines it to be in the public interest. (Translation of relevant portions of the text is in paragraph 11.) Although no City officials have referenced this provision, the law might permit the development of Snipiskes, with the City promising to incorporate a memorial (a park and/or monument) that will acknowledge the area as the site of a historical Jewish cemetery.

11. (U) Begin text of the Lithuanian law allowing relocation of cemeteries from Lithuanian Real Estate Cultural Heritage Protection statute.

IV. Abolishment of cemeteries

Section 23

All closed cemeteries and burial places, including all graves and burial places of soldiers, partisans and members of resistance movements are cultural and historical monuments.

In special cases of national importance, city or regional governments, after negotiations with the senior leadership of concerned religious communities, the Ministry of Education and Culture (now Ministry of Culture), the Ministry of Construction and Urban Development (now Ministry of Environment), the Ministry of Health, the Cultural Heritage Inspection Service (now Department of Cultural Heritage), and the State Defense department (now State Defense Ministry) may present to the Government of Lithuania materials regarding the abolishment of the cemetery and transfer of remains.

The Government's approved decision to abolish or transfer the cemetery must be published in local and national press six months before action can be taken. An appropriate announcement must also be placed at the entrance to the cemetery.

For one year after the Government's decision, relatives of the deceased, interested persons, and organizations can transfer remains and grave markers to other cemeteries according to articles 12 and 18 of this statute.

End Translation.

12. (C) REQUEST FOR GUIDANCE. Post requests guidance on the applicability and enforceability of the agreement signed between the USG and the GOL. We have not inquired with the GOL regarding the status of the agreement or the list and commissions under the agreement to avoid tipping the GOL off before we decide on a course of action. We are interested in exploring the following questions:

-- Has the agreement entered into force?

-- If yes, and if the GOL determines that there is an

overwhelming public need to develop the cemetery or that designating an area of the Snipiskes cemetery for a memorial park meets the requirements to "protect, preserve, and mark," would the USG consider Lithuania to be in violation of the agreement?

-- Has the USG intervened to stop construction or otherwise influence the use/development of cultural heritage sites by invoking this type of agreement in any of the other eighteen countries where similar agreements are in place? If so, what strategies did the USG apply? What was the result?

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